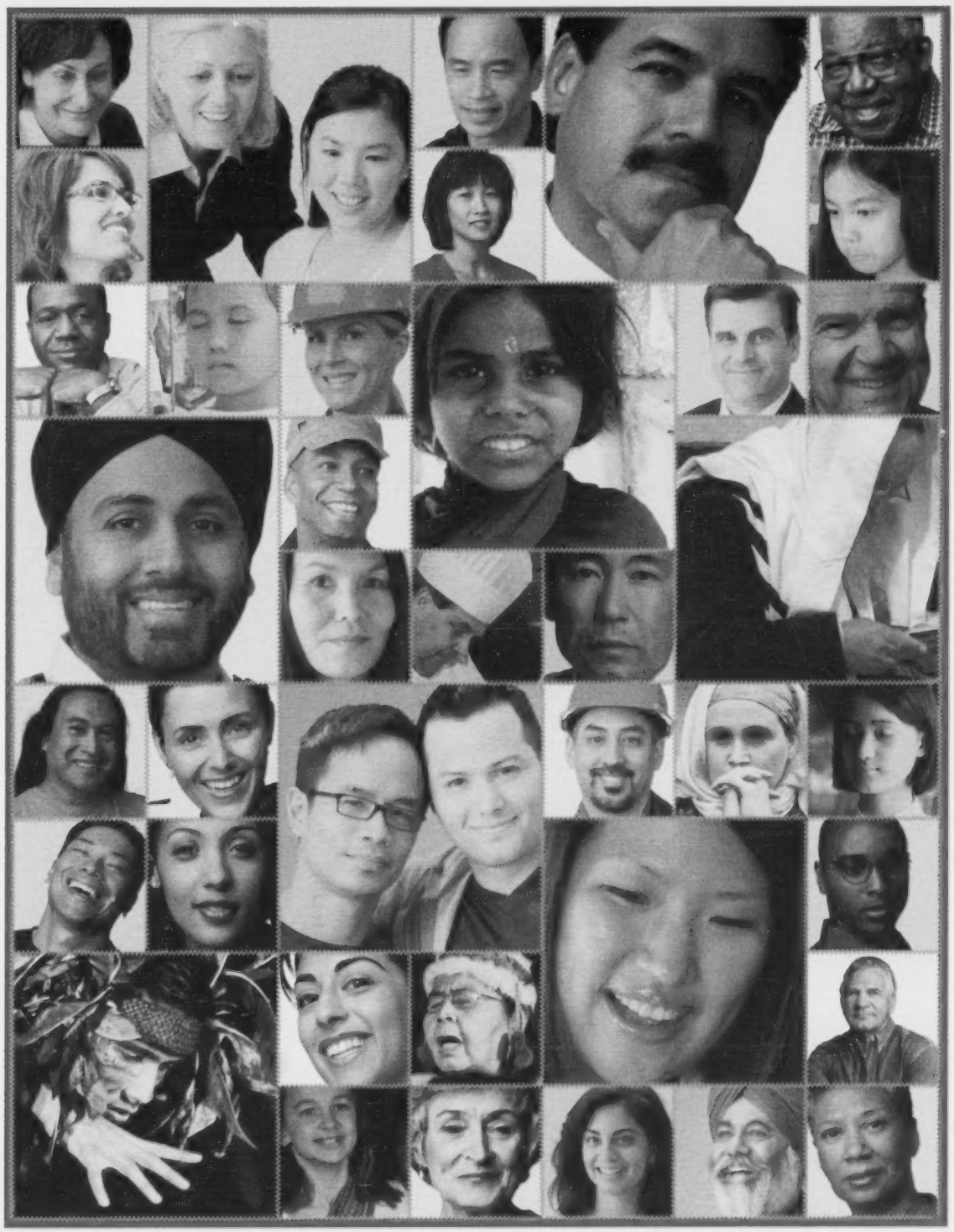
BC Human Rights Tribunal

Annual Report 2012-2013

Tenth Anniversary Edition



BRITISH COLUMBIA

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July 2, 2013

Honourable Suzanne Anton
Minister of Justice and Attorney General
Province of British Columbia
Room 232, Parliament Buildings
Victoria, BC V8V 1X4

Minister:

Congratulations on your appointment as Minister of Justice and Attorney General of British Columbia!

I am pleased to provide you with the Annual Report of the British Columbia Human Rights Tribunal for the Fiscal Year April 1, 2012 to March 31, 2013. You will note that this edition also celebrates the 10th Anniversary of BC's Direct Access Human Rights Tribunal.

The report is submitted in accordance with section 39.1 of the *Human Rights Code*.

By way of context, my letter to your predecessor the Honourable Shirley Bond, accompanying last year's Annual Report, highlighted the Tribunal's Policy and Procedures Reform agenda; its then operational challenges and initial response strategies; its priorities for FY 2012-13; and its identified needs in a number of key areas.

I propose to use the opportunity of this annual filing to provide you with an update respecting our strategies and progress in various areas of our operations over the past year.

OPERATING ENVIRONMENT: A COMPARATIVE SUMMARY OF FY 2012-13 WORKLOAD INDICATORS

The following highlights some key dimensions of the Tribunal's activities during the past year along with a comparison with the previous year (FY 2011-12):

ACTIVITY	FY 2012-13 VOLUME	% CHANGE	FY 2011-12 VOLUME
Complaints Received	**1028**	**(-6%)**	**1092**
• Accepted for Processing	580	(-18%)	705
• Rejected at Screening	448	(+16%)	387
Complaints Settled	**479**	**(+17%)**	**408**
Total Decisions Rendered [1]	**415**	**(+2%)**	**405**
• Time Limit Decisions	109	(-15%)	128
• Applications to Dismiss	241	(+13%)	213
• Decisions After a Hearing	51	(+13%)	45
• Others (including complaint deferrals)	117	(+10%)	106

We have provided summaries of key indicators spanning the Tribunal's ten-year history starting at page 20 of this report.

PROGRESS UPDATE

Last year I set out those Tribunal activities which were targeted for immediate or short-term change, including the screening of new complaints; the revision of complaint-associated forms; the case management process; settlement services; scheduling of hearings; decision making, as well as aspects of the Tribunal's constitutive legislative framework.

The following summary updates the Tribunal's progress in these key spheres.

1. COMPLAINT INTAKE AND SCREENING

Screening is the critical first step in the assessment of a complaint to determine whether it properly falls within the mandate of the Tribunal. Timeliness and consistency are central to this function. In the pursuit of those goals we have implemented the following process changes:

- Complaints are screened by a full-time experienced case manager with the support and oversight of the Tribunal Registrar;
- Complaints not accepted, are acknowledged and rejection letters are issued within days;
- Complaints accepted in whole or in part (where no further information is required), are served on Respondents within a week;
- Where a rejected complaint warrants, complainants are provided with the opportunity to provide additional information within 21 days; if no response is received, the file remains closed;

[1] Some of these contain more than one type of decision or determine more than one issue.

- Some complaints are partially accepted with more information invited; where no information is forthcoming within 21 days, the accepted portion of the complaint is served on the Respondent;
- Uniform correspondence templates track the key elements of a *prima facie* case of discrimination and are explicit regarding what is accepted, rejected and/or what additional information is needed.

These changes have already yielded the following dramatic, measurable results when compared to screening statistics of a year ago:

STAGE	April 2012	March 2013
Total Complaints in screening	200	78
Complaints awaiting screening	124	42
Complaints awaiting more information	76	36
Complaints in screening 60+ days	103	28

Our goal is to have complaints screened within 30 days of filing.

2. FORMS REDESIGN AND REVISION

Last year I reported that the Tribunal's Complaint and Response forms and associated instructional materials would be redesigned and restructured for clarity, ease of use and consistency. I indicated these changes would be implemented in the fall of 2012.

Rather than implementing these two forms on their own, we have determined to roll out the Tribunal's entire suite of new forms, including those for representative complaints, retaliation complaints, amendments, time limit issues and applications, contemporaneously.

We are, at the same time, arranging to have all forms as well as complete instructions available for completion and filing in electronic online formats.

This decision has required additional time to design, test, refine and obtain focused external stakeholder input to finalize the new forms. All this is being moved forward within existing staff resources and remains a top priority.

3. SETTLEMENT SERVICES

Last year I reported that the addition of contracted mediators, to ameliorate the mediation workload of Tribunal members, was yielding positive results in terms of the successful, timely resolution of complaints, as well as on overall workload management, including the production of decisions.

This year the Tribunal has, once more, assertively pursued the mediation option. Where parties agree, early settlement meetings are scheduled even earlier after a complaint is accepted for filing. The result is that mediations can often be completed within three to four months of the filing of a complaint.

This fiscal year 479, or 76%, of accepted complaints were successfully settled after mediation.

4. PRELIMINARY APPLICATIONS TO DISMISS A COMPLAINT WITHOUT HEARING

As a result of more rigorous, consistent screening, the Tribunal expects fewer applications to dismiss complaints without a full hearing in future.

Wherever possible, Members have been encouraged to author preliminary decisions which are shorter and less complex, and, in straightforward, routine or procedural matters, to render decisions less formally in the form of a letter to the parties.

As a result, and thanks to the diligence of its Members, the Tribunal's outstanding preliminary decisions as compared to a year ago have dropped from 130 to 40.

On a similar note, outstanding final decisions have been reduced from between 30-40 a year ago, to less than 9.

This positive direction is of course also attributable to the fact that we have the benefit and capacity of an almost full complement of Tribunal Members appointed.

5. SCHEDULING OF HEARINGS

Last year I reported the Tribunal would be scheduling full evidentiary hearings later in the process, after preliminary applications and settlement conferences were largely completed.

This relatively straightforward change in process has shown tremendous benefit. Complaints which are dismissed on a preliminary application or otherwise resolved or settled early in the process, never reach the hearing schedule. Hearings can, therefore, be readily scheduled within a matter of a few months rather than a year in advance. Coupled with the added benefits of more rigorous "hearing readiness" procedures, schedules are more stable and predictable; costly "no-shows" and late adjournments are avoided.

In the coming year the Tribunal will also be testing expedited, summary or informal "active hearing" strategies.

6. LEGISLATIVE AMENDMENTS

In last year's letter I identified the need to consider areas of the *Human Rights Code* and/or the *Administrative Tribunals Act* for amendment. In my experience in law and legislative

reform, any enactment, no matter how sound its policy underpinnings or how skillful its drafting can, especially after a decade in operation, benefit from reconsideration on the basis of experience and judicial interpretation.

Arising from, and consistent with its Strategic Review and Reform Agenda directed by government in December 2011, the Tribunal has identified a number of areas which will benefit from legislative amendment in the interests of timeliness and fairness. These have been developed with the insightful support of the Deputy Attorney General and in collaboration with Ministry staff.

I recommend modest amendments to the *Code* in respect of the following:

- Providing for the authority, by enactment or delegation, to assess and screen complaints, to be exercised by the Tribunal's Registrar;
- Refining, reducing and simplifying the grounds for dismissing a complaint without a hearing under s. 27(1);
- Adding the procedural powers and authorities necessary to allow for more active, timely, informal, streamlined and summary approaches to the adjudication and processing of complaints;
- Simplifying the standards which the courts apply in reviewing Tribunal decisions.

Once the amendments are approved to proceed and our revised forms are ready for implementation, the Tribunal's *Rules of Practice and Procedure* will be redrafted to capture the changes, again consistent with the objectives of simplification, consistency, timeliness, flexibility and ease of use.

MAINTAINING MOMENTUM

The progress demonstrated over the past year could not have occurred but for the fact that the Tribunal has had the benefit of an almost full roster of appointed Members. As of this report, two adjudicative appointments are on the cusp of expiring. I will be vigorously advocating for re-appointments, as soon as possible in consultation with the Minister. I also reiterate my concern that Members' compensation continues to lag in relation to the value of their work and has not been reconsidered since 2007.

In keeping with my previous comments in respect of the directed consolidation and co-location of the BC Human Rights Tribunal and the BC Review Board, I simply observe this initiative would benefit from a greater commitment from involved central agencies.

On a related note, I am aware that, as part of identifying amendments to the *Administrative Tribunals Act*, the concept of "clustering" of Tribunals has been proposed. Although the two Tribunals which I have the honour of chairing are attempting to demonstrate leadership in this area, it is nevertheless my sincere hope, on behalf of these and the array of other B.C. Tribunals, that decisions in respect of mandates will not pre-empt a rigorous and fulsome policy debate regarding the objectives, means, respective congruencies, and organizational implications of any proposed model "clusters".

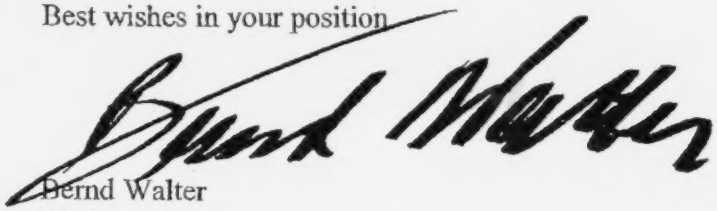
I am pleased to report, that despite the complement of Members, and staff, and any additional expenditures associated within the reform agenda, the Tribunal is once again declaring a year end surplus of $47,000.00 in its fiscal allocation.

Finally I must acknowledge the efforts of the Tribunal's Members, Legal Counsel, Registrar and Administrative Staff. It is nothing less than a privilege to work with such an accomplished and committed group of individuals.

While, as Minister Bond's March 2013 comments observe, much has been accomplished under Canada's first Direct Access Tribunal Model, there is more to be done.

I trust the foregoing will assist in introducing and familiarizing you with the operations and agenda of the BC Human Rights Tribunal.

Best wishes in your position



Bernd Walter
Chair

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Tribunal Mandate and Purpose

The British Columbia Human Rights Tribunal is an independent, quasi-judicial body, established under the *Human Rights Code*, to resolve and adjudicate human rights complaints in a manner that is consistent with the purposes set out in section 3:

a) to foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia;

b) to promote a climate of understanding and mutual respect where all are equal in dignity and rights;

c) to prevent discrimination prohibited by this *Code*;

d) to identify and eliminate persistent patterns of inequality associated with discrimination prohibited by this *Code*;

e) to provide a means of redress for those persons who are discriminated against contrary to this *Code*.

On March 31, 2003, British Columbia instituted a direct access model for human rights complaints.

The direct access Tribunal is complainant driven. The Tribunal does not have investigatory powers. Complaints are filed directly with the Tribunal which is responsible for all steps in the resolution and adjudication of human rights complaints.

New complaints are assessed to see that the information provided is adequate, that the Tribunal has jurisdiction over the matters set out, and that they are filed within the six-month time period set out in the *Code*. If a complaint is accepted for filing, the Tribunal notifies the respondents who then file a response to the allegations of discrimination.

Unless the parties settle the issues, or a respondent successfully applies to have the complaint dismissed, a hearing is held and a decision about whether the complaint is justified, and how it should be remedied, is rendered.

The Tribunal conducts hearings and settlement meetings throughout the Province. The Tribunal's practices and procedures are governed by its Rules.

Inquiry and Complaint Statistics

Inquiry Statistics

Inquiries about the Tribunal's complaint process are answered by Inquiry Officers. They provide information about the *Code* and also make referrals to other relevant community and government resources. The Tribunal is accessible from anywhere in the province by toll-free number or email.

In 2012/13, the Tribunal responded to 6,649 telephone and 2,154 email inquiries.

New Cases

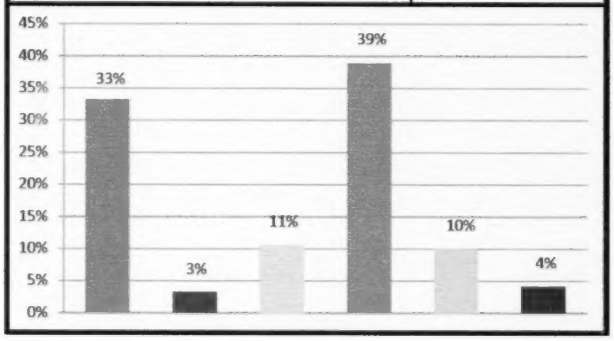
The Tribunal screens all complaints to ensure that they are within provincial jurisdiction, and to determine whether they set out a contravention of the *Code*.

Cases Handled April 1, 2012 - March 31, 2013		
New Cases	1028	
Cases Rejected	409	40%
Cases Accepted for Filing	619	60%

Closed Cases

Cases are closed when they are not accepted for filing at the initial screening stage, withdrawn because they have settled or are abandoned, dismissed or when a decision is rendered after a hearing.

Cases Closed by Reason April 1, 2012 - March 31, 2013		
Cases Rejected During Screening	409	33%
Late Filed Complaints Rejected	39	3%
Applications to Dismiss Granted	131	11%
Cases Settled	479	39%
Cases Withdrawn or Abandoned	123	10%
Decisions Rendered After Hearing	51	4%
Total Cases Closed	1232	



Complaints by Areas and Grounds

Areas and Grounds of Discrimination

The *Code* prohibits discrimination in the **areas** of employment, service, publication, tenancy, membership in unions and associations, employment advertisements, wages, and purchase of property. It also prohibits retaliation against a person who has made a complaint under the *Code*.

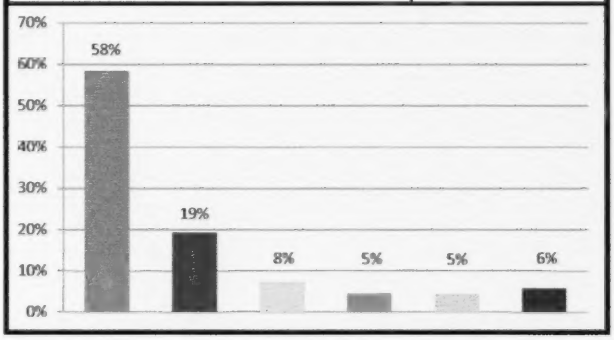
There are 15 prohibited **grounds** of discrimination: physical disability, mental disability, sex (including sexual harassment and pregnancy), race, place of origin, colour, ancestry, age (19 and over), family status, marital status, religion, sexual orientation, political belief, unrelated criminal conviction and lawful source of income.

Not all grounds apply to all areas.

A complaint may include more than one **area** or **ground** of discrimination. For instance, an employment-based complaint may also include the **area** of wages; a race-based complaint may also include **grounds** of ancestry, colour and place of origin.

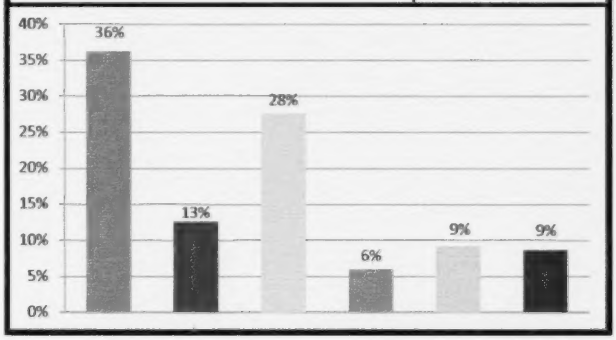
Complaints by Areas of Discrimination
April 1, 2012 - March 31, 2013

Section 13 - Employment	667	58%
Section 8 - Service	**220**	**19%**
Section 7 - Publication	86	8%
Section 10 - Tenancy	52	5%
Section 43 - Retaliation	52	5%
Total Other - (listed below)	**66**	**6%**
Section 14 - Membership	40	3%
Section 12 - Wages	12	1%
Section 11 - Employment Ads	10	1%
Section 9 - Purchase of Property	4	1%
Total Areas Alleged	**1143**	



Complaints by Grounds of Discrimination
April 1, 2012 - March 31, 2013

Total - Disability	597	36%
Physical Disability	350	21%
Mental Disability	247	15%
Sex (Including Sexual Harassment and Pregnancy)	**206**	**13%**
Total - Ethnicity	454	28%
Race	172	10%
Place of Origin	101	6%
Colour	87	5%
Ancestry	94	6%
Age	97	6%
Total - Family and Marital Status	150	9%
Family Status	96	6%
Marital Status	54	3%
Total Other - (listed below)	**141**	**9%**
Religion	59	4%
Sexual Orientation	47	3%
Political Belief	18	1%
Unrelated Criminal Conviction	16	1%
Lawful Source of Income	1	0%
Total Grounds Alleged	**1645**	



Settlement Services and Statistics

The Tribunal encourages parties to engage in settlement discussions.

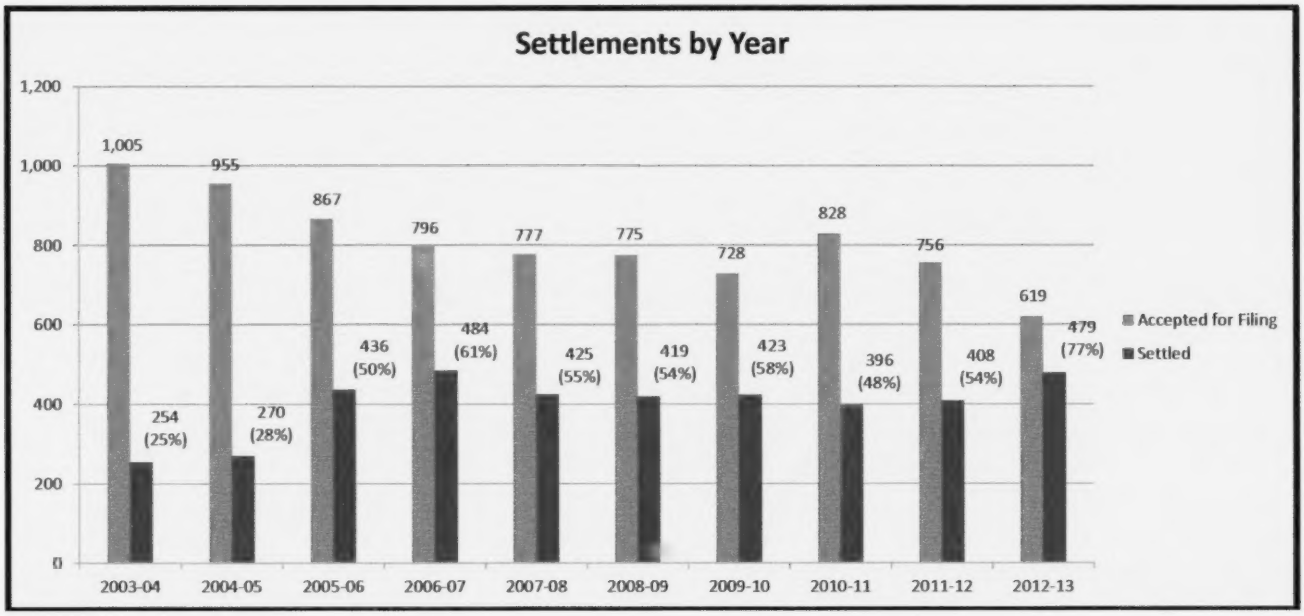
Tribunal-assisted settlement services are initiated even before the respondent files a response to the complaint, and at any later stage in the progress of a complaint. Many complaints settle as a result of these efforts, including solutions which could not be ordered after a hearing.

In 2012-13, the Tribunal conducted 438 settlement meetings.

The parties were able to resolve their disputes in 332 (76%) cases in which the Tribunal provided assistance. Some cases settle without the Tribunal's involvement.

Settlement meetings are confidential. The Tribunal does not publish the results.

In 2012-13, 479 cases settled.



Preliminary Decisions

Time Limit Applications

Section 22 of the *Code* provides a six-month time limit for filing complaints.

A complaint about events which occurred more than six months before the complaint was filed may be accepted if it alleges a "continuing contravention", where the most recent incident occurred within six months of filing.

The Tribunal may accept a complaint or part of a complaint filed after the time limit if it is in the public interest to do so and no substantial prejudice would result to anyone because of the delay.

This year, the Tribunal considered 109 applications under s. 22 of the *Code*, representing 30% of preliminary decisions. This number includes applications to dismiss a complaint made under s. 27(1)(g), discussed below.

The Tribunal found that 88 complaints were untimely, at least in part.

Fifty-five complaints were not accepted or were dismissed as untimely; twenty-one were dismissed in part.

The Tribunal accepted twelve late-filed complaints; six under s. 22(3) and six under s. 22(2).

Continuing Contravention

A "continuing contravention" includes repeated instances of discrimination of the same character. It includes an ongoing failure to accommodate a disability (*Futcher v. Victoria Shipyards and another*, 2013 BCHRT 70) and continuous sexual harassment in the workplace (*Sleightholm v. METRIN and another*, 2013 BCHRT 12).

The onus is on the complainant to provide dates for the alleged allegations to establish a continuing contravention. (*Sharma v. Coast Mountain Bus Company*, 2013 BCHRT 35; *Sethi v. Abbotsford Taxi and another*, 2012 BCHRT 433)

Large gaps in time between similar allegations may weigh against a finding of a continuing contravention, but must be considered in context, including the explanation for the gaps. (*Reynolds v. Overwaitea Food Group*, 2013 BCHRT 67)

Discretion to Accept Late-Filed Complaints

Whether it is in the public interest to accept a complaint filed outside the six-month time limit is decided in light of the purposes of the *Code* set out in s. 3 and depends on the circumstances of the case. The length of the delay, the reasons for the delay, and the uniqueness or possible significance of the allegations of discrimination are factors.

In two cases, a brief delay combined with an error of counsel resulted in acceptance of a late-filed complaint. (*Greaves v. Slegg Construction Materials*, 2012 BCHRT 292; *Lipskaia v. Fabcor*, 2013 BCHRT 2)

Deferral of Complaints

The Tribunal usually defers a complaint if a complainant has filed both a grievance and a human rights complaint in regard to the same subject matter, and if the union and employer are both actively engaged in proceeding through the grievance process and advancing in a timely manner to arbitration. (*Szepat v. B.C. (Ministry of Children and Family Development) and another*, 2012 BCHRT 185)

Generally, wrongful dismissal actions are not capable of dealing appropriately with the substance of a complaint, because the issue of whether a termi-

nation is wrongful does not answer the question of whether it was discriminatory. (*Saifi v. Acuren Group and another*, 2013 BCHRT 52)

The Tribunal was persuaded to defer a complaint where the court action involved complex employment issues, there was a significant overlap between the complaint and the civil claim, including the validity and *bona fides* of the court action, and where the damages claimed may overlap. (*Britnell v. Axis Insurance*, 2013 BCHRT 24)

APPLICATIONS TO DISMISS

Section 27(1) allows complaints that do not warrant the time or expense of a hearing on the merits, to be dismissed without a hearing. Generally, applications to dismiss are decided based on written submissions early in the process.

Applications to dismiss accounted for 67% of preliminary decisions this year.

Of 241 decisions, 131 (54%) were dismissed and 21 (9%) were partially dismissed.

Ninety (37%) applications to dismiss were denied.

GROUNDS FOR DISMISSAL

The Tribunal may dismiss a complaint for the following reasons:

Section 27(1)(a): No jurisdiction

The Tribunal may dismiss a complaint under section 27(1)(a), against a federally regulated company, because of a lack of jurisdiction, if the conduct was outside BC, or if the area or ground of discrimination does not apply to the facts alleged.

The Tribunal has no jurisdiction over a complaint where the interprovincial and international transportation of goods is a regular and continuous part of the respondent's business operations. (*Thiessen v. Coastal Pacific Xpress*, 2013 BCHRT 14)

Section 27(1)(b): No contravention of the Code

The Tribunal may dismiss a complaint under section 27(1)(b) if the acts or omissions alleged do not contravene the *Code*. No consideration is given, at this stage, to any alternative explanation or version of events put forward by the respondent.

Section 27(1)(c): No reasonable prospect of success

The Tribunal may dismiss a complaint under section 27(1)(c) where there is no reasonable prospect it would be found to be justified at a hearing.

Differences in the parties' versions of the facts is not necessarily enough to require a hearing. The Tribunal dismissed a complaint where only the respondent filed documentary evidence corroborating its version of events. (*Pala v. Community Living Society*, 2013 BCHRT 51)

The Tribunal has found that a hearing is required where the conflicts on the facts go to the root of the issues the Tribunal needs to determine. (*Desrochers v. Teksmed Services*, 2013 BCHRT 56)

Section 27(1)(d)(i): Proceeding with the complaint would not benefit the person, group or class alleged to have been discriminated against

The Tribunal may dismiss a complaint under section 27(1)(d)(i) if it determines that proceeding with the complaint would not benefit the person, group or class alleged to have been discriminated against.

Section 27(1)(d)(ii): Proceeding with the complaint would not further the purposes of the Code

The Tribunal declined to dismiss a complaint based on a settlement offer because of the proposed terms of the release, which included claims under legislation other than the *Code*. A broad release may properly be the result of negotiations conducted under the auspices of the Tribunal. However, an offer is not reasonable for the purposes of s. 27(1)(d)(ii) if it requires the complainant's agreement to something that the Tribunal could not order as the result of a hearing. (*Lowther v. Vancouver Island Health Authority*, 2013 BCHRT 20)

Section 27(1)(e): Complaint filed for improper purposes or in bad faith

A respondent must meet a high standard to have a complaint dismissed under s. 27(1)(e). It is not enough to present a different version of events or allege the complainant is not truthful.

Section 27(1)(f): Complaint appropriately resolved in another proceeding

The Tribunal may dismiss a complaint under section 27(1)(f) where it determines that the substance of the complaint has been appropriately resolved in another proceeding, such as a grievance.

The Tribunal dismissed a complaint where an arbitrator dealt with the human rights issues, saying it would not second-guess the arbitrator and Labour Relations Board. (*Randhawa v. Vancouver Police Department and Wager (No. 2)*, 2012 BCHRT 261)

The Tribunal declined to dismiss a complaint following an interim order issued by an arbitrator and where accommodation issues remained outstanding. (*Waters v. Mainroad Howe Sound Contracting*, 2013 BCHRT 61)

Section 27(1)(g): Contravention outside the time limit

If the Tribunal does not identify a time limit issue in its screening process, a respondent can apply to dismiss a complaint on the basis that it is not timely. The Tribunal determines if the complaint is timely, and if not, whether it should accept the late-filed complaint under the criteria in section 22.

OTHER DECISIONS

The Tribunal makes oral and written decisions on other matters, such as amending complaints, adding respondents, disclosure, costs, and limiting publication.

The Tribunal published 104 (29% of preliminary decisions) decisions on other matters. Examples are:

Representative Complaints

Section 21(5) of the *Code* gives the Tribunal authority to refuse to accept a group or class complaint for filing if it is satisfied that proceeding is not in the interest of the group or class.

The Tribunal refused to accept a representative complaint for filing because the class was too vague and overbroad, and the Tribunal was not convinced that the representative could adequately represent the interests of the class. (*A and B obo C v. B.C. (Ministry of Health)*, 2012 BCHRT 145)

Joining Complaints

Section 21(6) of the *Code* provides that the Tribunal may proceed with two or more complaints together if it is fair and reasonable in the circumstances to do so.

The Tribunal joined complaints where some of the legal issues were different between complaints of discrimination based on disability and complaints of retaliation, but there would be considerable overlap between the two cases in the areas of parties, witnesses, documents, and representation. (*Braund v. Northwestern Systems and others (No. 2)*, 2012 BCHRT 161)

Particulars

The Tribunal may order further and better particulars of a complaint. Particulars must provide sufficient facts to permit the other parties to prepare themselves for the hearing. (*George v. Provincial Health Services Authority and another*, 2012 BCHRT 421)

Reconsideration

A party may also ask the Tribunal to reconsider a decision. The applicant must show that the interests of fairness and justice require reconsideration. Reconsideration is not an opportunity to re-argue a matter. (*Vinarskaia v. Lepin Law Corporation and another (No. 2)*, 2012 BCHRT 423)

Final Decisions

This year, the Tribunal made 51 final decisions after a hearing on the merits.

Forty-nine percent of the complaints (25 out of 51) were found justified in whole or in part after a hearing.

Representation Before the Tribunal

The complaint was dismissed in one case because the complainant did not appear.

No respondent appeared in two cases and the complaint was found to be justified in both.

Consistent with prior years, more complainants were self-represented in final hearings on the merits than respondents.

Complainants had a lawyer in 16 cases (32%).

Respondents had a lawyer in 27 cases (57%).

In 10 cases, all parties had a lawyer.

In 16 cases, all parties were self-represented.

There has historically been a correlation between legal representation and success for complainants. This year, complainants with counsel succeeded in 75% of their cases.

Without counsel, they succeeded in only 38%.

This year, a complaint was dismissed in 59% of the cases in which respondents had legal counsel, and in 45% of the cases where the respondents did not have legal counsel.

Case Highlights

Key highlights of this year's final decisions:

- the majority of final decisions (38 of 51 cases heard) involved the area of employment (s. 13); 16 (31%) were found to be justified;
- nine decisions involved services (s. 8); four (44%) were found to be justified;
- five decisions involved tenancy (s. 10); four (80%) were found to be justified;
- five decisions involved retaliation (s. 43); two (40%) were found to be justified;
- one decision involved lower rate of pay based on sex (s. 12); it was not found to be justified;
- no decision involved publication (s. 7); purchase of property (s. 9); employment advertisements (s. 11); or membership in a union, employer's organization or occupational association (s. 14);

Regarding the grounds of discrimination:

- twenty-four final decisions dealt with physical and/or mental disability; thirteen (54%) of these complaints were found to be justified;
- eleven final decisions on sex discrimination which includes pregnancy (five decisions) and sexual harassment (two decisions); six (55%) were found to be justified;
- seven final decisions on race, colour, ancestry and/or place of origin; one (14%) was found to be justified;
- seven final decisions on age; one (14%) was found to be justified;

- five final decisions on family status; one (20%) was found to be justified;
- three final decisions on marital status; one (33%) was found to be justified;
- two final decisions on source of income; both were found to be justified;
- two final decisions on sexual orientation; one was found to be justified;
- two final decisions on religion; neither was found to be justified;
- one final decision on criminal conviction unrelated to employment; found not to be justified; and
- one final decision on political belief; found to be justified.

FINAL DECISIONS OF INTEREST

Malin v. Ultra Care and another (No. 2), 2012 BCHRT 158

The Tribunal found that the respondents discriminated when, after learning that the complainant was HIV positive, they did not provide him with further work. The respondents admitted that the complainant's HIV positive status was at least a part of the reason he was not recalled. The complainant was an excellent worker accustomed to being favoured in the offer of jobs. He was provided no work for the remainder of the year. The respondents did not lead evidence that could establish that they made any effort to inquire into whether the complainant needed accommodation, which the complainant said he did not, nor lead any evidence of an offer to accommodate the complainant in any way. The Tribunal ordered the respondents to cease the discrimination and refrain from committing the same or similar contravention, and declared that the respondents' conduct was discrimination. The Tribunal awarded the complainant lost wages for the period he expected to be called back to work, and $20,000 to compensate for injury to dignity, feelings and self-respect. The Tribunal also ordered costs against the respondents for failing to disclose potentially relevant documents.

Eadie and Thomas v. Riverbend Bed and Breakfast and others (No. 2), 2012 BCHRT 247

Once they learned that the complainants were a gay couple, the respondents cancelled the complainants' reservation for a room at their bed and breakfast. The Tribunal found that the respondents discriminated against the complainants in the provision of a service on the basis of sexual orientation. The respondents argued that they had bona fide and reasonable justification in refusing the complainants because they are Evangelical Christians. The Tribunal found that the bed and breakfast was not operated by a church or religious organization, and fell more toward the commercial end of the spectrum. While the business was operated by individuals with sincere religious beliefs respecting same-sex couples, and out of a portion of their personal residence, it was still a commercial activity. The respondents were not deprived of a meaningful choice in the exercise of their religion. Having entered into the commercial sphere, the respondents, like other business people, were required to comply with the laws of the Province, including the *Code*, which is quasi-constitutional legislation that prohibits discrimination on the basis of sexual orientation. In addition to cease and refrain and declaratory orders, the Tribunal awarded each complainant $1,500 for injury to dignity, feelings and self-respect, and expenses incurred and wage loss as a result of attending the hearing.

Winkelmeyer v. Woodlands Inn and Suites, 2012 BCHRT 312

The complainant, who has Cerebral Palsy, sought

employment from the respondent as a room attendant. He alleged that after he disclosed during a telephone call that he required the assistance of a cane for mobility, the tone of the conversation immediately shifted from positive to stiff. He attempted to salvage the situation by describing how he had done similar work at another employer by finding different ways to cope with the duties, and offered to attend the hotel to showcase his abilities. The complainant was not invited for an interview. The Tribunal found that the complainant was discriminated against in employment on the basis of physical disability. In addition to a cease and refrain order, the Tribunal awarded the complainant $5,000 for injury to dignity, feelings and self-respect. The Tribunal found that the complainant had established a serious possibility that, but for his disability, he would have been hired by the respondent, and therefore awarded lost wages, reduced by 30% to account for uncertainty respecting the possibility of hire.

Nicolosi v. Victoria Gardens Housing Co-operative and another (No. 2), 2013 BCHRT 1 (a judicial review has been filed)

The complainant, her son, her daughter, and her daughter's son applied for membership in the respondent housing co-op. Their application was accepted, and they were put on the top of the waiting list. The complainant's daughter moved into the co-op. The complainant sent a number of emails on her daughter's behalf concerning various issues with her daughter's move in. Subsequently, the complainant and her son were both taken off the waiting list for another unit. The Tribunal found that part of the reason the complainant was removed from the waiting list was that she had sent the emails on her daughter's behalf and was perceived by the co-op to be "high maintenance". The Tribunal found that the co-op's actions were, at least in part, due to the complainant's relationship with her daughter, and that this constituted discrimination based on family status. Since the purpose of the remedial provisions of the *Code* is to put the complainant back into the position she would have been but for the discriminatory conduct, the Tribunal ordered that the complainant be placed on the top of the waiting list for the next two-bedroom suite that became available, and that the co-op's Board consider the complainant's application on the basis that the Membership Committee had recommended her. The Tribunal also ordered that the respondent cease and refrain from discriminating, and $7,500 for injury to dignity, feelings and self-respect.

McCreath v. Victoria International Running Society and another, 2013 BCHRT 53

The Tribunal found that the respondents discriminated against the complainant, who is blind, in the provision of a service, by refusing him a five-minute early start time for a ten-kilometre run. The complainant and his running guide had experienced difficulty navigating the run safely because of congestion and therefore requested the early start. The respondents refused, arguing that congestion was a problem for both sighted and unsighted runners and citing safety concerns for all runners. The Tribunal found that the complainant had established that he suffered an adverse impact because he was not able to safely participate in the run and was no longer able to run with his regular running guide, and that there was no undue hardship in providing the early start. In addition to cease and refrain and declaratory orders, the Tribunal ordered that the respondents receive anti-discrimination training and institute a policy respecting the accommodation of blind runners, and give the complainant the opportunity to start the run early in any future races. The Tribunal also awarded $2,500 for injury to the complainant's dignity, feelings and self-respect, as well as the complainant's lost wages for time taken off work to attend the hearing.

Final Decisions

Wali v. Jace Holdings, 2012 BCHRT 389

The complainant, a pharmacist, was in a car accident and sought a reduced work week. He subsequently went on vacation and then on medical leave. Around the same time, the College of Pharmacists was in the process of establishing a new bylaw that would allow pharmacy technicians to provide certain services without direct supervision from a pharmacist. The complainant felt that it was the pharmacist's responsibility to ensure patient safety and that to give a pharmacy technician the increased scope of responsibility without any kind of pharmacist supervision would put the public at risk. He circulated to every pharmacist in BC a proposed resolution requesting that the College reconsider, and expressed opposition at the College's Extraordinary General Meeting. He did not identify himself as an employee of the respondent and was speaking on behalf of himself as a member of the College. The respondent supported the regulation of pharmacy technicians and their expanded scope of practice, and was concerned that the complainant would be misinterpreted as representing its views. The complainant was subsequently terminated. The respondent said the complainant was terminated without cause for business reasons, including in part because of his position regarding pharmacy technicians, but argued that the ground of political belief was not engaged.

The Tribunal found that the complainant had been discriminated against in employment on the basis of disability and political belief. With respect to disability, the respondent had difficulty scheduling reduced work weeks and had a policy against them, absent compelling circumstances. In the circumstances, the Tribunal found that the complainant's disability was one of the business reasons he was terminated. With respect to political belief, the Tribunal found that the free speech of College members on matters affecting the regulation of their profession falls within the scope of political belief, given the legislative framework under which the College operates and the express regulatory mandate given the College by the government regarding pharmacy technicians. This was a new legislated initiative, that involved the public welfare, and that was being debated within the pharmacy community. The Tribunal made cease and refrain and declaratory orders, and awarded the complainant $10,000 for injury to dignity, feelings and self-respect, as well as lost wages which took into account his delay in starting to look for work.

Stewart v. Satorotas Enterprises and others, 2012 BCHRT 442

The complainant, who was 68 years old at the time of the hearing, has severe osteoporosis and a clubfoot and requires a walker for mobility, requested that the respondent apartment building build a ramp to allow her to safely access the five stairs leading to her apartment. The respondents refused, arguing that there was no legal requirement for them to do so because they are not a seniors' facility or a facility for the disabled, and that they could not afford to build a ramp when the complainant made the request because they had already spent a significant amount of money on other renovations. The Tribunal found that the respondents had not established that they would suffer undue hardship if they were required to build a ramp, and that the complainant had been discriminated against with respect to her tenancy on the basis of age and physical disability. The Tribunal ordered that the respondents cease contravening the *Code* and refrain from committing the same or similar contravention. The logical effect of the cease and refrain order required the building of a ramp, and the Tribunal therefore ordered the respondents to construct a front door entrance ramp to the apartment building which would allow the complainant to access her apartment with safety and dignity. The Tribunal ordered $15,000 for injury to her dignity, feelings and self-respect. The Tribunal also awarded $500 in costs against the respondents for their failure to disclose documents.

Judicial Reviews and Appeals

The *Code* does not provide for appeals of Tribunal decisions. Judicial review is available in B.C. Supreme Court, pursuant to the *Judicial Review Procedure Act*, subject to a 60-day time limit for final decisions prescribed in the *Administrative Tribunals Act* ("*ATA*").

Judicial review is a limited type of review. Generally, the Court considers the information that the Tribunal had before it and decides if the Tribunal made a decision within its power or in a way that was wrong. The Court applies standards of review in s. 59 of the *ATA* to determine whether the Tribunal's decision should be set aside or should stand even if the Court does not agree with it. If the Tribunal's decision is set aside, the usual remedy is to send it back to the Tribunal for reconsideration.

A decision on judicial review may be appealed to the BC Court of Appeal. There is a further appeal to the Supreme Court of Canada if the Court agrees to hear it.

Judicial Reviews in BC Supreme Court

This year, 26 petitions for judicial review were filed in the Supreme Court, as compared to 27 in the prior reporting year.

The Court struck one petition and issued 11 judgments on the merits.

Four petitions were granted in whole or part.

Four of these judgements reviewed final decisions and one reviewed a costs decision made after a final decision.

- In *J.J. v. School District No. 43 (Coquitlam)*, 2012 BCSC 523, the Supreme Court overturned a Tribunal finding that a painter failed to mitigate her wage loss by not agreeing to terms and conditions of employment that would have allowed her to work again for her former employer. The Tribunal's decision was restored on appeal.

- In *Moody v. Scott*, 2012 BCSC 657, the Court considered a decision by the Tribunal which found discrimination in tenancy on the basis of sexual orientation, disability and lawful source of income. The respondent had been absent from the hearing, though substitutionally served. The Tribunal refused the respondent's application to reopen the hearing after he received the decision, as he had been adequately notified. The Court held that it could consider the reopening decision as context of the discrimination decision under review. Applying the principle of issue estoppel, the Court concluded that the respondent was bound by the reopening decision and could not argue that the discrimination decision was unfair because he had no notice of the hearing. It also found that the fact that the Tribunal's compensatory award for injury to dignity was greater than the amount in authorities relied upon by the complainants was not evidence of bias.

- In *Silver Campsites v. James*, 2012 BCSC 1437, the court granted part of the petition. It found that the Tribunal erred in finding that a privileged communication was discriminatory, and in awarding compensation for injury to dignity in the absence of evidence as to impact of the discrimination on the complainant and for the purpose of punishing the respondent rather than compensating the complainant. A Notice of Appeal has been filed.

- In *Smoother Movers v. British Columbia Human Rights Tribunal, Todd Chaudhary, and The Attorney General of British Columbia*, 29 June 2012, BCSC Vanc. S094594, the Court found that the Tribunal did not have jurisdiction to order costs where it lacked jurisdiction over the complaint at first instance, it had not retained jurisdiction to

determine an application for costs after rendering its final decision, and no application to reopen had been made.

- In *Caster v. Walter E. Evans (1973) Ltd.*, (06 February 2013) Vancouver S124384 (BCSC), the Court refused to overturn findings of fact and credibility findings. It refused to admit affidavit evidence as to rulings made during the hearing where a transcript could have been ordered. It also held that even assuming procedural rulings made by the Tribunal were unfair, overall there was no breach of natural justice and the result would have been the same. A Notice of Appeal has been filed.

Seven judgements reviewed preliminary decisions of the Tribunal, and one petition was struck.

- In *Kamali v. Affordable Housing Societies*, 2012 BCSC 692, the Court upheld the Tribunal's dismissal of a tenancy complaint under s. 27(1)(c). A Notice of Appeal has been filed.

- In *Dela Merced v. Aluminum Curtainwall System Inc. and Luciani*, (BCSC Cranbrook Reg. No. 21618) July 17, 2012, Holmes, J., the Court found that the Tribunal's refusal to accept an employment complaint for filing and to reconsider that decision was not patently unreasonable.

- In *I.J. v. J.A.M.*, 2012 BCSC 892, a petition for judicial review of a time limit and publication ban decision was struck as being bound to fail. A Notice of Appeal has been filed.

- In *De Silva v. Fraser Health Authority*, 2012 BCSC 1710, the court upheld a Tribunal decision dismissing a worker's complaint against her union under s. 27(1)(c) and against her employer under s. 27(1)(d)(ii) about accommodation of her disability. A Notice of Appeal has been filed.

- In *Rush v. British Columbia Human Rights Tribunal*, 2012 BCSC 1661, the Court upheld the Tribunal's dismissing an employment complaint under s. 27(1)(c) of the *Code*.

- In *Salvo v. Shoppers Drug Mart Store #2222*, 2012 BCSC 1789, the Court overturned a dismissal of a mental disability complaint under s. 27(1)(c).

- In *Legere v. The Provincial Health Services Authority*, 2013 BCSC 306, the Court affirmed the Tribunal's discretionary decision that a disability employment complaint was not a continuing contravention and refusal to accept it as late-filed. A Notice of Appeal has been filed.

COURT OF APPEAL

This year there were seven notices of appeal filed, which is three more than the prior year.

The Court of Appeal issued two judgements on appeal of a judicial review of final decisions by the Tribunal and one judgement on appeal of judicial review of preliminary decisions.

- In *Friedmann v. MacGarvie*, 2012 BCCA 445, the Court of Appeal restored the Tribunal's decision. It found that the Tribunal was correct in interpreting the Supreme Court of Canada's decision in *Janzen v. Platy Enterprises Ltd.*, [1989] 1 S.C.R. 1252 as holding that sexual harassment is sex discrimination. The Court said that sexual harassment does not require proof of differential treatment and the very nature of it can be sufficient to establish that the complainant's gender was a factor in the adverse treatment. In this case, a landlord's sexual harassment of a female tenant was discrimination regarding the term of quiet enjoyment because of her sex, contrary to s. 10(1)(b) of the *Code*.

- In *J.J. v. School District 43 (Coquitlam)*, 2013 BCCA 67, the Court of Appeal restored the Tribunal's remedial award in respect of a complaint of sexual harassment in employment. The Court stated that assessing compensation under s. 37(2)(d)(ii) of the *Code* was discretionary in nature and that the Tribunal was not bound to apply the doctrine of mitigation.

- In *Fasken Martineau DuMoulin LLP v. British Columbia (Human Rights Tribunal)*, 2012 BCSC 313, the Court of Appeal held that the Tribunal did not have jurisdiction over an employment complaint by a lawyer who was a partner in a limited liability partnership. An application for leave to appeal to the Supreme Court of Canada was filed.

SUPREME COURT OF CANADA

Leave to appeal to the SCC in *McCormick v. Fasken Martineau DuMoulin LLP* was granted on March 7, 2013.

In *Moore v. British Columbia (Education)*, 2012 SCC 61, the SCC upheld the Tribunal's finding that a student with a severe learning disability (dyslexia) was not accommodated by the school district when it closed a diagnostic centre for financial reasons, that could have provided the student with the intensive remediation that he required, while maintaining other discretionary programs. It did not consider alternatives to meeting his needs within the public school system, but rather advised his parents to send him to a private school. The Court said that the service in issue was education generally, not special education. Adequate special education was not a dispensable luxury but a ramp enabling access to the Province's statutory commitment to provide education to all learners. With respect to the Province, the Court held that the Tribunal's systemic orders against it were too remote from the scope of the complaint.

SPECIAL PROGRAMS AND POLICY

Section 42(3) of the *Code* recognizes that treating everyone equally does not always promote true equality and the elimination of discrimination. It allows approval of special programs which treat disadvantaged individuals or groups differently to recognize their diverse characteristics and unique needs and improve their conditions.

Special Program approvals are generally for six months to five years but may be renewed. Employment equity programs are usually approved for several years. Periodic reporting is required.

When a special program is approved by the Chair, its activities are deemed not to be discrimination.

The Tribunal's Special Programs Policy and a list of special programs approved are posted on the Tribunal's website.

The Chair approved nine new Special Programs this year:

- **Community Connections Society**: Hiring restricted to a woman for the position of Community Support Worker to work with a female client who has developmental and other disabilities. Community Connections is a non-profit social service agency which provides integrated, accessible social services to individuals and their families in Revelstoke, BC.

- **First Nations Education Steering Committee Society**: Recruitment and hiring preference to persons of First Nations ancestry. FNESCS is an independent, non-profit society that is committed to improving education for First Nations students in BC. The organization's employees provide services to build capacity in First Nations communities, advocating on behalf of First Nations learners, facilitating communications, and responding to emerging issues with respect to First Nations education.

- **North Island College**: Priority admission for a number of self-declared Aboriginal applicants in the Bachelor of Science Nursing Program; the Early Childhood Care and Education Program; the Human Service Worker Program; the Health Care Assistant Program; and Practical Nursing Program. Reserving seats will enhance the likelihood of academic achievement and provide increased employment opportunities.

- **Office of the Representative for Children and Youth**: Hiring restricted to Aboriginal applicants for the position of Associate Deputy Representative, Advocacy, Aboriginal and Community Relations. The Representative is responsible for advocacy, youth engagement, and community relations, with particular consideration given to issues as they relate to Aboriginal youth and families. The Representative is also responsible for consultation and direction with respect to engaging with Aboriginal people and communities and ensuring issues in relation to Aboriginal children and youth are raised and addressed.

- **School District No. 39 (Vancouver)**: Hiring preference given to individuals of Aboriginal ancestry to create or exceed parity in the proportion of Aboriginal educators and Aboriginal students in the District.

- **School District No. 50 (Haida Gwaii)**: Restrict hiring to a female Education Assistant to work with a female student with disabilities who requires personal care.

- **School District No. 72 (Campbell River)**: Restrict hiring to a male Educational Assistant to work with a female student with disabilities who works better with male staff.

- **School District No. 73 (Kamloops/Thompson)**: Restrict hiring to a person of Aboriginal ancestry for the position of District Principal – Aboriginal Education.

- **Vancouver Island University**: Restrict hiring to a person of Aboriginal ancestry for the position of BC Regional Innovation Chair in Aboriginal Early Childhood Development.

B.C.'s Human Rights Tribunal celebrates 10-year anniversary on March 31

By Shirley Bond
Minister of Justice and Attorney General
March 26, 2013

VICTORIA - Human rights movements around the globe have been pivotal in supporting open, democratic societies where individuals can lead safe, happy and fulfilled lives.

The movements have been critical in building societies, including British Columbia's, that aspire to eliminate discrimination against individuals because of their race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disabilities, sex, sexual orientation or political belief. Human rights movements have opened employment doors, helped people put roofs over their heads, and curbed exposure to hateful comments and ideas.

Ten years ago, the British Columbia Human Rights Tribunal as we now know it was created and the new direct access model - the first of its kind in Canada - strengthened our dispute resolution mechanisms for ensuring that the rights of individuals are protected. Under the direct access model, human rights complaints go directly to the tribunal, which handles the complaint from start to finish. This process is efficient and accountable.

When reflecting on the services offered by the Human Rights Tribunal, it's important to understand how it works and what it represents. The tribunal is an independent, quasi-judicial body responsible for screening, mediating and adjudicating human rights complaints in a manner consistent with the purposes as stated in the Human Rights Code:

- To foster a society in British Columbia in which there are no impediments to full and free participation in the economic, social, political and cultural life of British Columbia.
- To promote a climate of understanding and mutual respect where all are equal in dignity and rights.
- To prevent discrimination prohibited by the code.
- To identify and eliminate persistent patterns of inequality associated with discrimination prohibited by the code.
- To provide a means of redress for those persons who are discriminated against contrary to the code.

Its commitment and innovation in providing services to British Columbians is reflected in the number of cases the Human Rights Tribunal addresses annually. In 2011-12, it received almost 1,100 new cases and responded to more than 10,000 telephone and email enquiries. The most common types of human rights complaints concerned discrimination on the basis of disability (35 per cent), ethnicity (26 per cent), sex and sexual harassment (14 per cent), family and marital status (nine per cent) and age (six per cent).

Tenth Anniversary Message

The tribunal's commitment to continuous improvement helps to make services to British Columbians even better. In recent years, the tribunal has streamlined the way complaints are resolved and results of this reform have been remarkable:

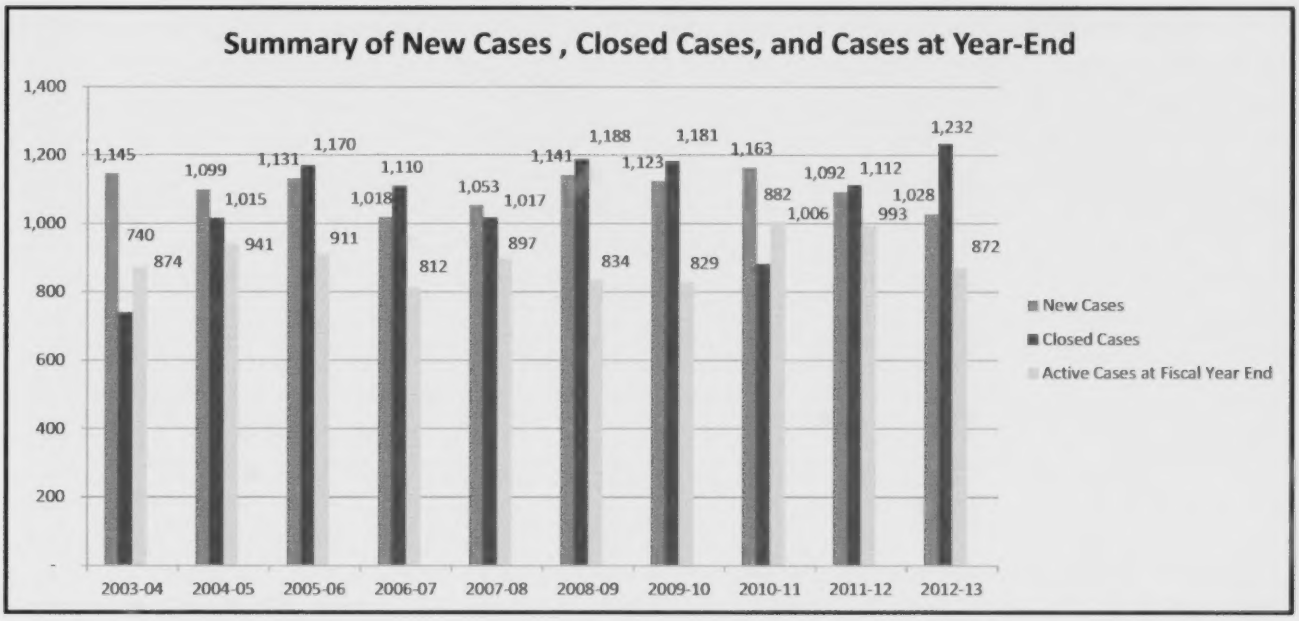
- The screening process is often completed within 60 days of filing.
- Seventy-four per cent of cases referred to mediation are successfully resolved.
- Effective use of preliminary dispute resolution and settlement services has resulted in only four per cent of the complaints referred to oral hearings.

As we celebrate the 10th anniversary of the direct access model implemented through changes to the Human Rights Code that were brought into force by the B.C. government on March 31, 2003, I ask all British Columbians to reflect on how fortunate we are to live in an open and tolerant society, and how important it remains for citizens around the globe to keep challenging the status quo in jurisdictions that don't have effective human rights protection.

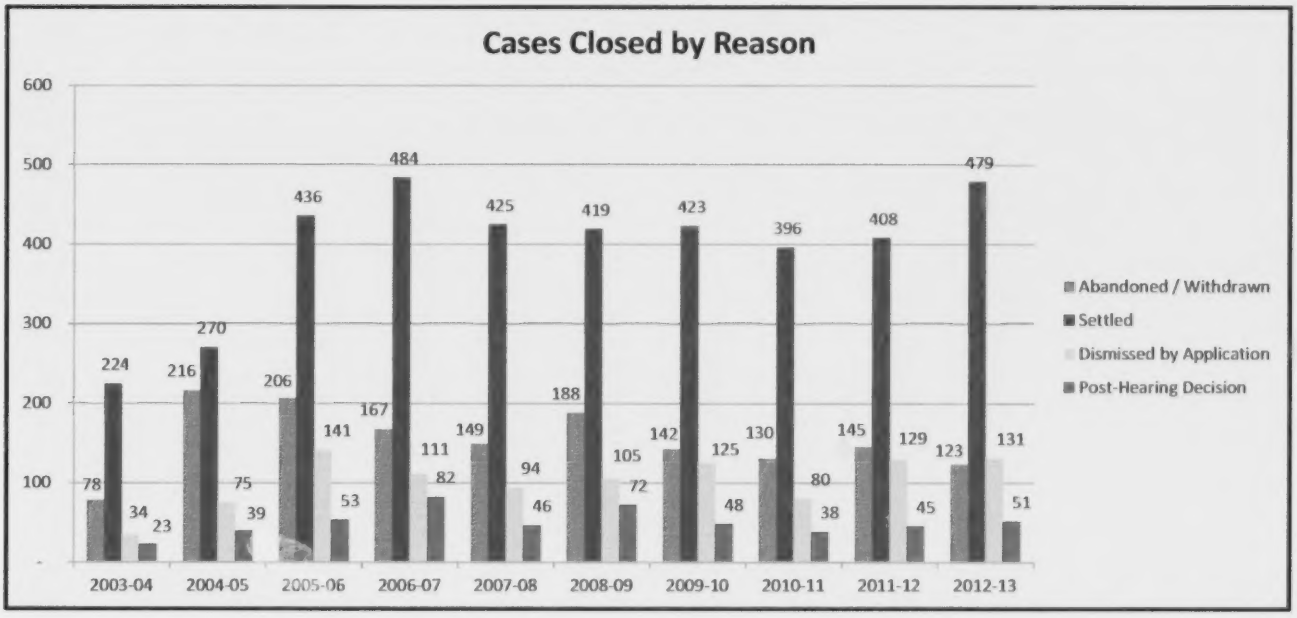
Contact:

James Beresford
Communications
Ministry of Justice
250 356-6423

2003-2012: Ten-Year Comparison of Workload Indicators

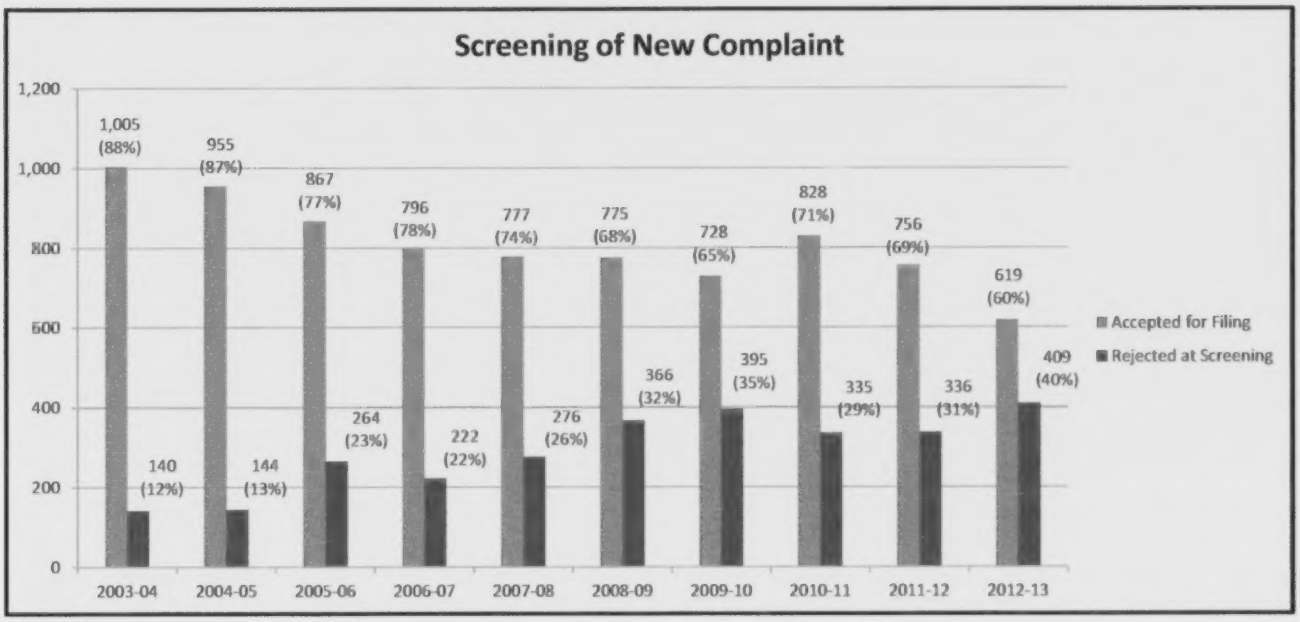


Total intake of new complaints compared to total output of resolved complaints with number of active complaints in inventory at fiscal year-end

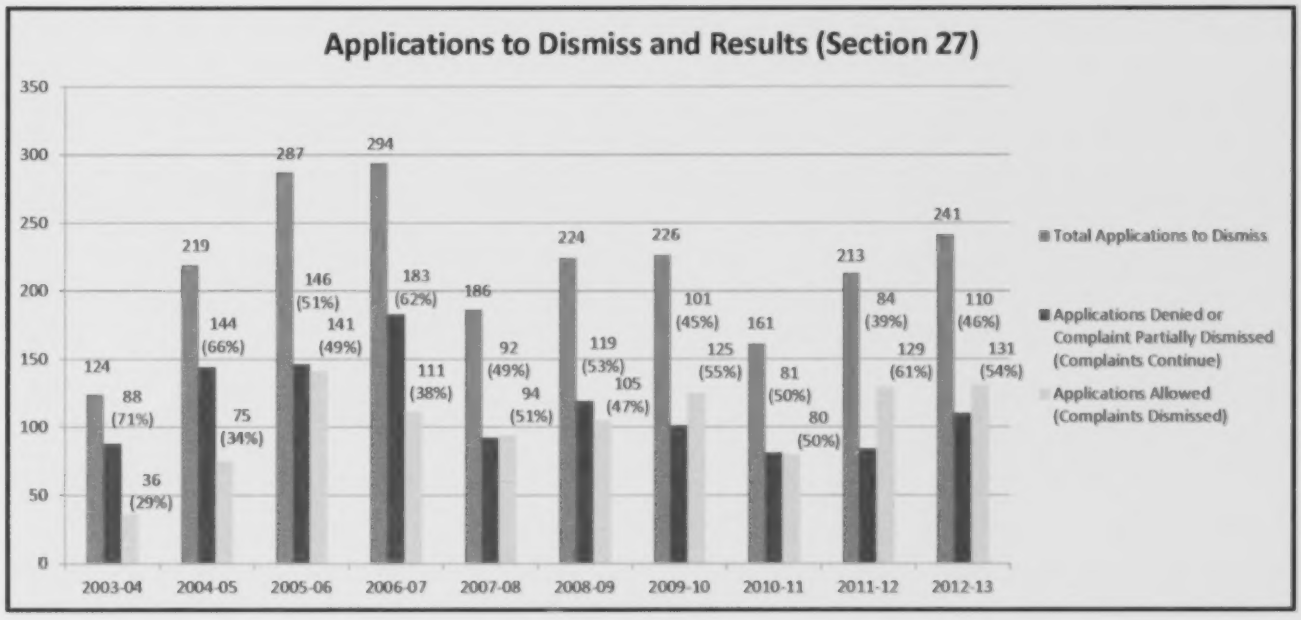


Reason for closure of complaints previously accepted for filing

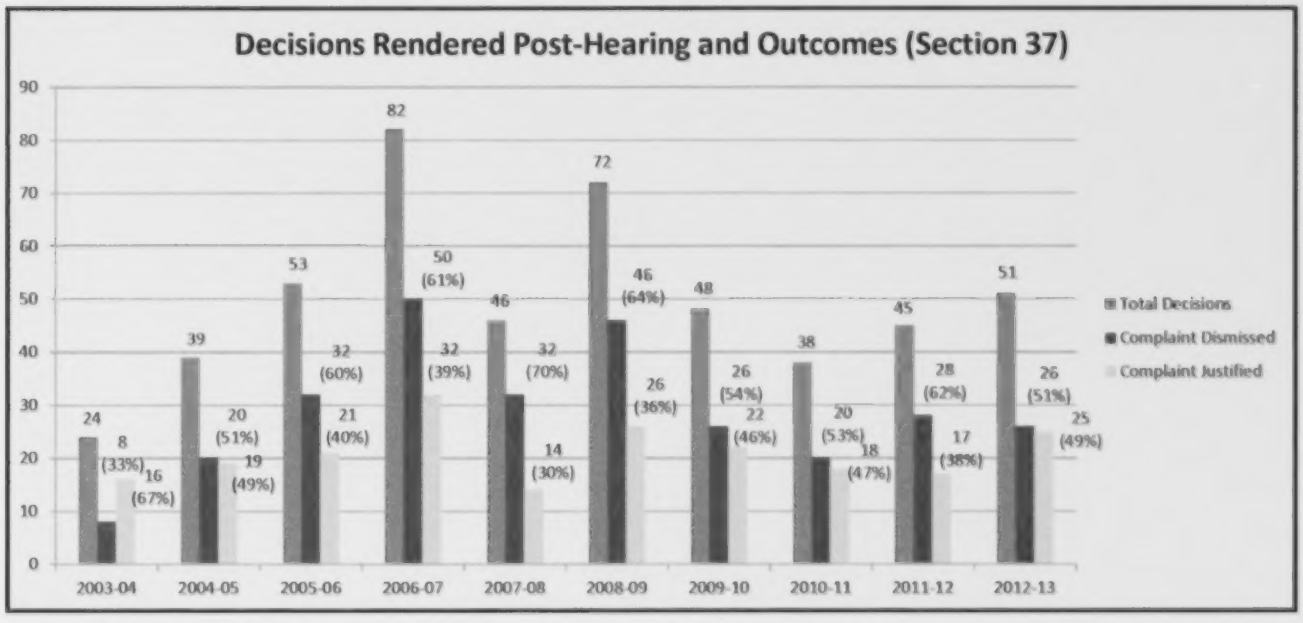
2003-2012: Ten-Year Comparison of Workload Indicators



Total new complaints accepted for filing or rejected for lack of jurisdiction or lack of information at screening



Applications to dismiss a complaint before conducting a hearing, with decision outcomes



Final decision outcomes after a hearing on the merits of the complaint

Tribunal Members

Robert B. Blasina, Member

Mr. Blasina was appointed a full-time Member of the Tribunal on August 2, 2011. Mr. Blasina graduated from the University of Toronto in 1971, with a Bachelor of Arts in Economics and from Queen's University in 1974, with a Bachelor of Laws. He was called to the Bar of British Columbia in 1977, and he obtained a Chartered Arbitrator designation in 1999 through the British Columbia Arbitration and Mediation Institute.

He first practiced labour law, representing a number of trade-unions, and then as an arbitrator and mediator with respect to collective agreement and employment issues. Prior to coming to the Tribunal, Mr. Blasina had twenty-four years' experience as a consensual arbitrator and mediator, and has served on the Boards of the Arbitrators' Association of British Columbia and the British Columbia Arbitration and Mediation Institute.

Murray Geiger-Adams, Member

Mr. Geiger-Adams was appointed a full-time Member of the Tribunal on March 9, 2009 for a six-month term under a Chair's appointment. He was most recently reappointed for a five-year term expiring in January 2015.

He holds a law degree from the University of Toronto (1985), and a Bachelor of Arts (Honours) degree in political science from the University of British Columbia (1975).

Prior to joining the Tribunal, and from 1997-2008, Mr. Geiger-Adams was legal counsel for a professional association responsible for collective agreement administration.

Before that, and from 1985-1997, he was a student, associate and then partner in a Vancouver law firm, representing clients in matters including labour, human rights, Aboriginal rights and employment.

Diana Juricevic, Member

Ms. Juricevic was appointed a full-time Member of the Tribunal on February 16, 2012 for a five-year term. She holds a Juris Doctor and Master of Economics degree from the University of Toronto (2004). She also holds an Honours Bachelor of Arts degree from the University of Toronto (2001).

Prior to joining the Tribunal, Ms. Juricevic practised international criminal law before tribunals in The Hague and Cambodia. She was also the Acting Director of the International Human Rights program at the University of Toronto Faculty of Law where she taught courses on international criminal law and human rights advocacy.

At the outset of her career, Ms. Juricevic was an associate at a national law firm practising in the areas of civil litigation, administrative law, and human rights.

Enid Marion, Member

Ms. Marion was appointed a full-time Member of the Tribunal, effective July 27, 2008 for a five-year term expiring in July 2013. She holds a law degree from the University of Victoria (1988).

Prior to joining the Tribunal, Ms. Marion practiced labour, employment and human rights law as an Associate with a Vancouver law firm and as an Associate and then Partner with another Vancouver law firm.

Tribunal Members

Catherine McCreary, Member

Ms. McCreary was appointed a full-time Member of the Tribunal on April 2, 2012 for a temporary one-year term. In May 2012, she was appointed on a five-year term expiring in May 2017. A graduate of the University of Calgary Faculty of Law, she worked in British Columbia and Alberta as an arbitrator, mediator and investigator. She was a Vice-Chair of the BC Labour Relations Board from 2000 to 2006. Ms. McCreary worked as in-house counsel to Teamsters Local 213 after moving to BC from Alberta in 1997. In Alberta, she worked with the law firm McGown Johnson and acted as counsel, usually to unions and employees.

Ms. McCreary served on the boards of directors of Vancity and Central 1 Credit Union and recently was appointed by FICOM to serve on the Task Force on Credit Union Governance. She sometimes works as a Governance Coach to member-based organizations.

Judith Parrack, Member

Ms. Parrack was appointed a full-time Member of the Tribunal on August 1, 2005 for a five-year term. She is currently authorized, pursuant to section 7 of the *Administrative Tribunals Act*, to continue to exercise powers as a member over continuing proceedings until completion. Ms. Parrack holds a law degree from Osgoode Hall Law School (1987).

Ms. Parrack was an Associate with a national law firm from 1989 to 1994 and a staff lawyer at the B.C. Public Interest Advocacy Centre from 1995 to 1999. She was a full-time Member of the B.C. Human Rights Tribunal from 1999 to 2002.

Prior to re-joining the Tribunal in 2004, Ms. Parrack was in private practice in the areas of Labour, Human Rights and Administrative Law.

Norman Trerise, Member

Mr. Trerise was appointed a full-time Member of the Tribunal on December 2, 2010 for a five-year term.

He holds a law degree from the University of British Columbia (1973) and a Bachelor of Arts degree from the University of Oregon (1969).

Prior to his appointment, Mr. Trerise practised labour, employment, human rights and administrative law as a partner with a national law firm.

Marlene Tyshynski, Member

Ms. Tyshynski became a full-time Member of the Tribunal on December 1, 2005 for a temporary six-month term.

Upon expiry of her term, Ms. Tyshynski returned to her position as legal counsel to the Tribunal. In October 2007, following amendments to the *Administrative Tribunals Act*, the Chair appointed her to a second six-month term. In april 2008, Ms. Tyshynski was appointed to a five-year term expiring in April 2013 and has recently been appointed to a six-month term expiring in October 2013.

She holds a law degree from the University of Victoria (1988), a Master of Social Work degree from Wilfred Laurier University (1978) and an Honours Bachelor of Applied Science degree from the University of Guelph (1976).

At the outset of her career, Ms. Tyshynski was an associate with two law firms in Victoria. She was in private practice for several years specializing in, among other areas, Administrative Law, then she worked as a staff lawyer for the Legal Services Society.

Prior to her appointment as Member, Ms. Tyshynski served as legal counsel to the Tribunal for three years.

Tribunal Members

Bernd Walter, Chair

Mr. Walter was appointed Chair of the Tribunal on August 1, 2011 for a five-year term. He also chairs the British Columbia Review Board.

Mr. Walter has chaired a number of BC Tribunals. He has also served as an ADM in the BC Public Service, as well as in Alberta and Ontario. He served as Alberta's First Children's Advocate.

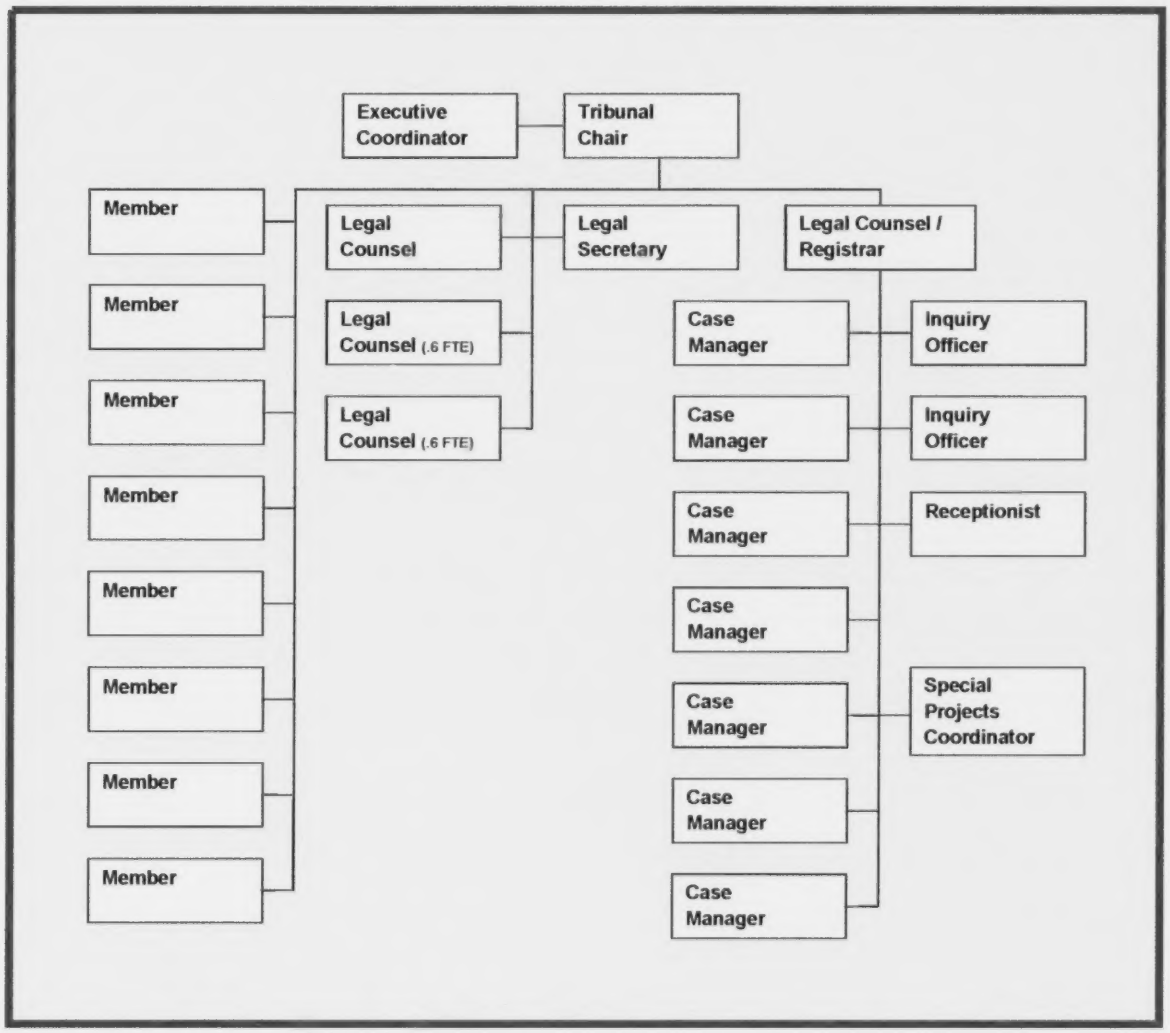
Mr. Walter's background includes program, policy and law reform, in particular in child protection, adoption, Aboriginal child and family services, child, youth and adult mental health and children's rights. He has also participated in First Nations Residential Schools reconciliation and healing work.

Cost of Operation

BC Human Rights Tribunal Operating Cost
Fiscal Year 2012-2013

Category	Expenditure	Delegated Budget	Variance
Salaries (Chair, Members, Registry and Administration)	$ 2,097,454	$ 2,207,000	$ 109,546
Employee Benefits	$ 482,320	$ 507,000	$ 24,680
Expired-Term Members – Fees for Completing Outstanding Decisions	$ 0	$ 20,000	$ 20,000
Travel	$ 50,559	$ 110,000	$ 59,441
Centralized Management Support Services	$ 0	$ 0	$ 0
Professional Services	$ 260,368	$ 103,000	$(157,368)
Information Services, Data and Communication Services	$ 879	$ 17,000	$ 16,121
Office and Business Expenses	$ 87,717	$ 59,000	$ (28,717)
Statutory Advertising and Publications	$ 1,344	$ 5,000	$ 3,656
Total Cost	**$ 2,980,641**	**$ 3,028,000**	**$ 47,359**

Organization Chart



Tribunal Publications

The following Guides, Information Sheets and Policies are available in English, Chinese and Punjabi on the Tribunal's website or by contacting the Tribunal. Please refer to the back cover of this report for contact information.

Guides

1– The BC Human Rights Code and Tribunal
2– Making a Complaint and guide to completing a Complaint Form
3– Responding to a Complaint and guide to completing a Response to Complaint Form
4– The Settlement Meeting
5– Getting Ready for a Hearing
Guide for Self-Represented People

Information Sheets

1– Tribunal's Rules of Practice and Procedure
2– How to Name a Respondent
3– What is a Representative Complaint?
4– Time Limit for Filing a Complaint - Complainants
5– Time Limit for Filing a Complaint - Respondents
6– Tribunal Complaint Streams
7– Standard Stream Process - Complainants
8– Standard Stream Process - Respondents
9– How to Ask for an Expedited Hearing
10– How to Deliver Communications to Other Participants
11– What is Disclosure?
12– How to Make an Application
13– How to Add a Respondent
14– How to Add a Complainant
15– How to Make an Intervenor Application
16a–How to Apply to Dismiss a Complaint under Section 27
16b–How to Respond to an Application to Dismiss a Complaint
17– How to Request an Extension of Time
18– How to Apply for an Adjournment of a Hearing
19– How to Require a Witness to Attend a Hearing
20– Complainant's Duty to Communicate with the Tribunal
21– How to Find Human Rights Decisions
22– Remedies at the Human Rights Tribunal
23– How to Seek Judicial Review
23a–Judicial Review: The Tribunal's Role
24– How to Obtain Documents from a Person or Organization who is not a Party to the Complaint
25– How to Enforce Your Order
26– Costs because of Improper Conduct
27– Reconsideration of Decisions

Policies

Complainant's Duty to Communicate with the Tribunal
Public Access and Media
Settlement Meeting
Special Programs

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Executive Coordinator
Andrea Nash

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Katherine Hardie (part-time)
Denise Paluck (part-time)

Legal Secretary
Nikki Mann

Case Managers
Carla Kennedy (partial year)
Anne-Marie Kloss
Lorne MacDonald
Cristin N. Popa
Cheryl Seguin
Maureen Shields (partial year)
Sandy Tse
Daniel Varnals

Special Projects Coordinator
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Reception
Janet Mews

The core mission of the British Columbia Human Rights Tribunal is the timely and fair resolution of disputes involving the human rights of all British Columbians

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